

Notice of Allowability

Application No.

09/214,124

Examiner

Quang Nguyen, Ph.D.

Applicant(s)

LOPEZ LASTRA ET AL.

Art Unit

1636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/23/03.
2. ☒ The allowed claim(s) is/are 8-15,17-19,25,29,31,35,38,40,41,45,47,48 and 51.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>3/22/04</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with attorney Sherry M. Carty on March 16/2004-March 19/2004.

The application has been amended as follows:

In the Specification:

On page 1, between lines 14 and 15, please insert the phrase - - BACKGROUND OF THE INVENTION - -.

On page 4, between lines 3 and 4, please insert the phrase - - DETAILED DESCRIPTION OF THE INVENTION - -.

On page 20, between lines 5 and 6, please insert the phrase - - BRIEF DESCRIPTION OF THE DRAWINGS - -.

In the Claims: Claim 49 has been cancelled. Claims 9-10, 14-15, 29, 35, 38, 45 and 51 have been amended as follows:

Claim 9: The vector according to claim 8, wherein said vector is a plasmid vector or a viral vector [derived from a virus] selected from the group consisting of [poxvirus, adenovirus, baculovirus, herpesvirus, adeno-associated virus and retrovirus] a poxviral vector, an adenoviral vector, a baculoviral vector, a herpesviral vector, an adeno-associated viral vector and a retroviral vector.

Claim 10: The vector according to claim 8, which is [derived from a retrovirus] a retroviral vector and which comprises at least the following elements associated in a functional manner: a retroviral 5' LTR and a retroviral 3' LTR, one or more genes of interest, and said nucleotide sequence to allow the encapsidation of said vector into a viral particle or as an IRES site to allow or promote the expression of a gene of interest positioned downstream of said nucleotide sequence.

Claim 14: The retroviral vector according to claim 12, in which the encapsidation region is [derived] obtained from a murine retrovirus, or from a VL30-type retrotransposon and the IRES site comprises the portion of the sequence presented in the sequence identifier SEQ ID NO:2:

- (i) starting at nucleotide 1 and ending at nucleotide 578, or
- (ii) starting at nucleotide 265 and ending at nucleotide 578, [or
- (iii) starting at nucleotide 452 and ending at nucleotide 578]

or to the DNA equivalent of said portion (i), or (ii), [or (iii),] in which U nucleotides are replaced by T nucleotides.

Claim 15: The retroviral vector according to claim 14, in which the encapsidation region is [derived] obtained from an MoMLV and the IRES site comprises the portion of the sequence presented in sequence identified SEQ ID NO:2 starting at nucleotide 265 and ending at nucleotide 578, or the DNA equivalent of said portion in which U nucleotides are replaced by T nucleotides.

Claim 29: The method of claim 25, wherein said nucleotide sequence comprises the portion of the sequence presented in the sequence identifier SEQ ID NO:2:

- (i) starting at nucleotide 1 and ending at nucleotide 578, or
- (ii) starting at nucleotide 265 and ending at nucleotide 578, [or
- (iii) starting at nucleotide 452 and ending at nucleotide 578]

or to the DNA equivalent of said portion (i), or (ii), [or (iii),] in which U nucleotides are replaced by T nucleotides.

Claim 35: The method of claim 31, wherein said nucleotide sequence comprises the portion of the sequence presented in the sequence identifier SEQ ID NO:2:

- (i) starting at nucleotide 1 and ending at nucleotide 578,
- [(ii) starting at nucleotide 265 and ending at nucleotide 578, or
- (iii) starting at nucleotide 452 and ending at nucleotide 578]

or to the DNA equivalent of said portion (i), [(ii) or (iii),] in which U nucleotides are replaced by T nucleotides.

Claim 38: A method for the preparation of one or more polypeptides of interest by [recombination] recombinant techniques, comprising the step of culturing *in vitro* a cell comprising [a] the vector according to claim 8 and harvesting said polypeptide(s) from the supernatant or from the cell culture.

Claim 45: The vector of claim 8, wherein said nucleotide sequence comprises the portion of the sequence presented in the sequence identifier SEQ ID NO:2:

- (i) starting at nucleotide 1 and ending at nucleotide 578, or
- (ii) starting at nucleotide 265 and ending at nucleotide 578, [or
- (iii) starting at nucleotide 452 and ending at nucleotide 578]

or to the DNA equivalent of said portion (i), or (ii), in which U nucleotides are replaced by T nucleotides.

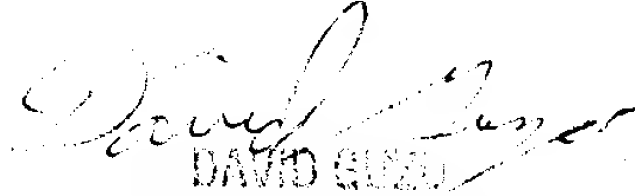
Claim 51: A method for the preparation of one or more polypeptides of interest by [recombination] recombinant techniques, comprising the step of culturing *in vitro* a cell infected with [a] the viral particle according to claim 18 and harvesting said polypeptide(s) from the supernatant or from the cell culture.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang Nguyen, Ph.D., whose telephone number is (571) 272-0776.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's mentor, David Guzo, Ph.D., may be reached at (571) 272-0767, or SPE, Irem Yucel, Ph.D., at (571) 272-0781.

To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1636; Central Fax No. (703) 872-9306.

Quang Nguyen, Ph.D.


DAVID GUZO
PRIMARY EXAMINER